

Inner City Press

February 21, 2022

By ECF and E-mail to Chambers

Hon. Vernon S. Broderick, United States District Judge
Southern District of New York, 40 Foley Square, New York, NY 10007

Re: Opposition to Press Exclusion from Courtroom in Death Penalty Phase in *US v. Saipov*, 17-cr-722 (VSB)

Dear Judge Broderick:

In the midst of the death penalty phase in *US v. Sayfullo Saipov*, members of the media today were told now there will be no media seats in the courtroom. In this important case, this would stop reporting on courtroom responses to the testimony - which the defense argues militate for a mistrial - and the innumerable aspects of a criminal trial to which the wider public has a right of access, through the media and its reporting. Press presence is particularly important in capital cases.

A row of seats for the media, or at a minimum pool seats, should be allowed immediately. If the trial needs to be moved to the Ceremonial Courtroom to ensure access consistent with the First Amendment and common law, the trial should be moved. I understand that the Court will be hearing from other media here.

The First Amendment guarantees the public and press a right to attend criminal trials, not only portions of them. *In re NBC Universal, Inc.*, 426 F. Supp. 2d 49 (E.D.N.Y. 2006). The Second Circuit has held that the First Amendment right demands broader disclosure to the public than that required by the common law. See *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 124 (recognizing that the right to access under the First Amendment is "more stringent").

"Representatives of the press must be given an opportunity to be heard on the question of their exclusion from a court proceeding" *Trump v. Deutsche Bank AG*, 940 F.2d 146, 150 (2d Cir. 2019).

Please docket this, as SDNY Judges Hellerstein, Castel, Ramos, Furman and others have done. See, e.g.,
<https://storage.courtlistener.com/recap/gov.uscourts.nysd.516151/gov.uscourts.nysd.516151.85.0.pdf>

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If appropriate, PLEASE TAKE NOTICE that Inner City Press and its undersigned reporter, in personal capacity, will move this Court before Honorable Vernon S. Broderick, U.S. District Judge for the Southern District of New York, at a date and time directed by the Court, for entry of an order granting permission to be heard on the exclusion of the media from the courtroom in US v. Saipov, 17-cr-722 (VSB)

Please act on this request, as soon as possible.

Thank you.

Respectfully submitted,

/s/

Matthew Russell Lee, Inner City Press

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